

EXHIBIT A

1 IN THE GENERAL SESSIONS COURT
2 FOR HAMILTON COUNTY, TENNESSEE
3

4 STATE OF TENNESSEE,
5 Plaintiff,
6

7 vs

C. A. No. 307686

8
9 ANTHONY NATHAN SMITH
10 and WILLIAM HOWARD,
11 Defendants.
12
13
14

15 TRANSCRIPT OF PRELIMINARY HEARING
16 Before The Honorable Gary W. Starnes
17
18
19
20

21 APPEARANCES:

22 For Plaintiff: BRIAN BUSH, ESQ.

23 For Defendant Howard: ADAM S. MAJOR, ESQ.

24 For Defendant Smith: JOHNNY MAHLUHM, ESQ.
25

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1 not.

2 Q. Okay. Is your encounter with Howard
3 captured at all by way of video? In other words, any
4 video in your vehicle that would have captured -- a
5 recording of your encounter with Mr. Howard?

6 A. We did turn on video after the initial
7 contact.

8 Q. Okay. But you have no video of him
9 passing you and you coming back to the Wendy's?

10 A. No.

11 Q. Okay. But you did turn it on whenever
12 you had the initial encounter with Mr. Howard?

13 A. Not on the initial encounter.

14 Q. Okay.

15 A. I didn't have enough time to turn...

16 Q. Okay. But as you're parked in the
17 Wendy's parking lot, that's being recorded. Is that
18 right? Is there an audio recording or a video
19 recording?

20 A. Not on the initial contact.

21 Q. All right. Why don't you just tell me
22 what was recorded? That makes it easier. What was
23 recorded to your knowledge?

24 A. I mean we'd have to look at the video.
25 I don't know everything that got recorded.

1 Q. All right. But you know at some point
2 a camera was turned on and something was captured on
3 that camera?

4 A. Yes.

5 Q. Okay. All right. And you'll preserve
6 that during the pendency of this case?

7 A. Yes.

8 Q. While this case is pending, you'll
9 preserve that. Is that right?

10 A. I believe it's on Deputy Voss'
11 vehicle.

12 Q. Okay. All right. At what point did
13 Deputy Voss join you?

14 A. Immediately.

15 Q. Okay. All right. Did you radio him
16 in advance for him to get there, or was it just by
17 coincidence he arrived on the scene at the same time?

18 A. No. I called him via phone.

19 Q. All right. And where did he position
20 his vehicle?

21 A. The passenger's side of my vehicle.

22 Q. Okay. Had Voss already arrived on the
23 scene by the time you -- before you approached the
24 driver's side of the vehicle?

25 A. We approached the vehicle together.

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1 you Mirandized Mr. Howard. Is that right, Deputy?

2 A. I did not Mirandize him.

3 Q. Okay. Was that Voss?

4 A. I believe so.

5 Q. Okay. Any admissions that you heard

6 Mr. Howard make with respect to the ownership of any

7 of the items that were found on him or anything else

8 inside the vehicle?

9 A. I did not.

10 Q. Okay. I believe that's all the

11 questions I have.

12

13 REDIRECT EXAMINATION BY MR. BUSH:

14

15 Q. Just a few, quick follow-ups. Mr.

16 Major was asking you about what would involve

17 (inaudible) there or not. Is it true that he

18 accompanied you to the Wendy's parking lot?

19 A. Yes.

20 Q. So you were working in tandem?

21 A. Yes.

22 Q. All right. Let's talk about the

23 equipment just briefly. You are -- your squad car is

24 equipped with video equipment, recording equipment.

25 Correct?

1 A. Yes.

2 Q. And that can be manually activated or

3 automatically activated. Is that correct?

4 A. Yes.

5 Q. Okay. I think a sample of when it's

6 automatically activated is if you activate your blue

7 lights. Correct?

8 A. Yes.

9 Q. And as an example, when it's manually

10 activated is when you don't have your blue lights on

11 but you want to record what's happening?

12 A. You push the button.

13 Q. All right. Your audio -- you don't

14 have a body cam. Correct?

15 A. I do not.

16 Q. But you do have -- you have audio

17 recording equipment on your person.

18 A. Yes.

19 Q. When does that come on automatically?

20 A. When the video recorder comes on.

21 Q. So if your blue lights are on or if

22 you manually turn on your equipment, your audio

23 automatically comes on?

24 A. Yes.

25 Q. Do you have the ability to manually

1 turn on your recording equipment?

2 A. Yes.

3 Q. And from when you parked your car and
4 got out with the suspects to when the equipment
5 started recording, had your vehicle moved at all?

6 A. Ask me one more time.

7 Q. All right. So where you parked - all
8 right? - you got out, and it's your testimony that
9 nothing was being recorded.

10 A. Right.

11 Q. When your recording equipment
12 eventually comes back on, had your vehicle remained
13 in the same spot the entire time?

14 A. Yes.

15 Q. All right. And their vehicle had
16 remained in the same spot the entire time?

17 A. Yes.

18 Q. All right. That's all I have.

19 THE COURT: Anything further? Mr.
20 Mahluhm, do you have anything?

21 MR. MAHLUHM: Yes, Your Honor.

22

23 CROSS EXAMINATION BY MR. JOHNNY MAHLUHM:

24

25 Q. Thank you. Good morning, Deputy

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1 Q. ...and the sex toy as well. And
2 inside there you found the meth. Is that right?

3 A. That's correct.

4 Q. Anything else in the bag in terms of
5 any ID or anything, any item -- let's start with IDs.

6 A. Not that I recall, no.

7 Q. Okay. Were there any initials on the
8 backpack or anything like that, anything identifying
9 about the backpack itself?

10 A. Not that I recall.

11 Q. Okay. Can you describe just the
12 condition of the contents of the vehicle? A lot of
13 things in there, a few things? How would you
14 describe it?

15 A. It was packed full of clothes and
16 junk.

17 Q. Okay. Aside from the meth that you
18 found inside the black bag and aside from what was
19 found of Mr. Howard's, any other meth found inside
20 the vehicle?

21 A. Not that I recall.

22 Q. Okay. Any other marijuana besides
23 what was found on Mr. Howard?

24 A. Not that I recall.

25 Q. Okay. And, again, to make sure that I

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1 understood you, in terms of the video recording, are
2 you saying the video would have started recording
3 after the defendants were placed in handcuffs?

4 A. Yes.

5 Q. Okay. And only afterwards? It
6 wouldn't have captured anything beforehand?

7 A. Like I said, I haven't reviewed it. I
8 may have very well hit it...my memory, but I doubt
9 it.

10 Q. Okay. At some point did you or Deputy
11 Stevens draw guns on the occupants of the vehicle?

12 A. Absolutely.

13 Q. And why was that?

14 A. Because he wasn't following commands,
15 and we thought he had a gun.

16 Q. Okay. By "he," you mean Mr. Howard?

17 A. The driver. Mr. Smith was absolutely
18 cooperative at all times.

19 Q. Okay. Obviously, no firearms were
20 found inside the vehicle.

21 A. No, Sir.

22 Q. Is that correct? Okay. Any other
23 statements Mr. Howard made there at the scene other
24 than the fact that he was from Virginia and had only
25 been in town for a few minutes?

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1 A. When we started searching the vehicle,
2 he started stating that he couldn't give me
3 permission to search the vehicle because it wasn't
4 his vehicle.

5 Q. Okay. Did he identify the owner of
6 the vehicle?

7 A. No.

8 Q. Or his connection with the owner of
9 the vehicle...

10 A. Not that I remember.

11 Q. ...or how he came to be in the
12 vehicle?

13 A. Not that I remember.

14 Q. Okay. Anything else stated by Mr.
15 Howard to the best of your recollection of these
16 events?

17 A. When I asked him about the
18 methamphetamine after he was Mirandized, he tried to
19 explain to me that he came down from Virginia and
20 somebody had left the methamphetamine in the car, and
21 I tried to explain to him that that was about
22 \$30,000.00 worth of amphetamine. People just don't
23 leave that. That was the only thing I really recall.

24 Q. Did you volunteer to him that you
25 suspected it to be meth or did he say that it was

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1 meth?

2 A. I couldn't recall that.

3 Q. Okay. Where was Mr. Howard whenever
4 you discovered the bag in the back and you opened it
5 up?

6 A. He was leaning on the front of Deputy
7 Stevens' vehicle.

8 Q. Okay. Did he claim ownership of
9 anything in the bag at all?

10 A. No. They -- nobody knew anything.

11 Q. Okay. All right. When you get back
12 to the station -- was it field tested at all in terms
13 of the suspected substance?

14 A. No.

15 Q. When you get back to the station, it's
16 weighed, and you're present while it was being
17 weighed. I assume we're talking about a digital
18 scale that it was placed upon?

19 A. That's correct. It was in our
20 Property Division.

21 Q. All right. What was actually placed
22 on the scale itself?

23 A. The bag and the plastic bag.

24 Q. Okay. So we're talking about two
25 plastic -- in other words, it sounds like these are

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1 packaged separately? In other words, you had two...

2 A. Yeah. I weighed it and how I weighed
3 it is each bag separately, and then obviously I added
4 the two.

5 Q. And each one weighed 2.33 pounds?

6 A. Correct.

7 Q. Okay. What did the packaging of the
8 meth itself look like? In other words, was there
9 color to it, or was it just a clear bag?

10 A. It was a freezer bag. Just like a
11 black freezer bag.

12 Q. Okay. What happened to the vehicle?

13 A. We towed it, the next wrecker, so it's
14 -- I don't recall which wrecker yard, but it's
15 somewhere in the records.

16 Q. But it's still I assume locally here
17 in Hamilton County?

18 A. Absolutely.

19 Q. Okay. Have you been able to talk to
20 any owners of the vehicle?

21 A. No.

22 Q. Okay. Have you reached out to them
23 since this...

24 A. No.

25 Q. ...matter began? Okay. Your Honor,

1 that's all the questions I have for Deputy Voss.

2 MR. BUSH: No redirect, Your Honor.

3 THE COURT: Any questions of this witness?

4 MR. MAHLUHM: Yes, Your Honor. Thank you.

5
6 CROSS EXAMINATION BY MR. JOHNNY MAHLUHM:

7
8 Q. Good morning, Deputy Voss. My name is
9 John Mahluhm, and I represent Mr. Smith.

10 A. All right.

11 Q. You did take a statement from Mr.
12 Smith, though. Is that correct?

13 A. It was a vague statement. I basically
14 -- he didn't really want to talk. So I'm not going
15 to force him to cooperate. So...

16 Q. He said he didn't know anything
17 about...

18 A. That's correct.

19 Q. ...the meth found in the car?

20 A. That's correct.

21 Q. And there's a video of that or...

22 A. Most likely.

23 Q. And the District Attorney asked you if
24 you've made arrests prior to this for a controlled
25 substance, which was confirmed to be a controlled

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